

Canada, June

From: John Lewis <jlewis@democracyforward.org>
Sent: Monday, January 14, 2019 8:26 PM
To: Hudak, Brian (USADC)
Cc: ecf@democracyforward.org; Sroka, Scott (USADC); Siegelbaum, Jill
Subject: Re: DFF, 1596

Brian,

Same to you all. We consent to the motion.

Best,
John

On Jan 14, 2019, at 7:36 PM, Hudak, Brian (USADC) <Brian.Hudak@usdoj.gov> wrote:

John – hope all is well. Although ED is funded and making productions, my office is largely shutdown and Scott Sroka has been furloughed.

In light of this development, we are going to be moving to stay litigation in the case and to extend/hold in abeyance all current filing deadlines pending further order of the Court. We also propose to file a joint status report within 14 days of funding being restored with the parties' proposals on further proceedings in this matter. Our motion will expressly not seek to stay ED's FOIA processing or productions (as ED has funding). I think the most immediate filing deadline that will be affected by our motion will be the joint status report currently due on 1/18.

Consistent with Local Civil Rule 7(m), can you please let me know your position on this motion? Many thanks for your time and consideration.

Best regards,

Brian P. Hudak | Deputy Chief
Civil Division, U.S. Attorney's Office
(202) 252-2549 | 555 Fourth Street, NW, Washington, DC 20530

From: Sroka, Scott (USADC)
Sent: Tuesday, January 8, 2019 3:11 PM
To: Hudak, Brian (USADC) <BHudak@usa.doj.gov>
Subject: Fwd: DFF v. ED - 1:18-cv-01596

Sent from my iPhone

Begin forwarded message:

From: John Lewis <jlewis@democracyforward.org>
Date: January 8, 2019 at 1:11:38 PM EST
To: "Siegelbaum, Jill" <Jill.Siegelbaum@ed.gov>
Cc: "ecf@democracyforward.org" <ecf@democracyforward.org>, "Sroka, Scott

(USADC) (Scott.Sroka@usdoj.gov)" <Scott.Sroka@usdoj.gov>

Subject: Re: DFF v. ED - 1:18-cv-01596

Hi Jill, the 15th is fine with us. Just so you're aware, I would note that the judge's order technically says every 30 days, so it won't always be on the 14th of the month, but that's obviously not a big deal for us.

Best,
John

On Tue, Jan 8, 2019 at 1:02 PM Siegelbaum, Jill <Jill.Siegelbaum@ed.gov> wrote:

Good afternoon –

I am agency counsel assigned to the above-cited litigation. Despite the partial shutdown, and as ED is fully funded, I am continuing to process the interim releases scheduled for the 14th of each month. However, I will be out of the office January 14, returning January 15. Would DFF consent to my sending out the January release on the 15th?

Jill Siegelbaum

Attorney

Division of Business and Administrative Law

Office of the General Counsel

U.S. Department of Education

Room 6E249

400 Maryland Avenue, SW

Washington, DC 20202

Phone: (202) 708-6812

Facsimile: (202) 401-9528

--

John Lewis

Counsel, Democracy Forward Foundation

(202) 601-2487 | jlewis@democracyforward.org

Canada, June

From: Siegelbaum, Jill
Sent: Tuesday, January 08, 2019 1:03 PM
To: 'jlewis@democracyforward.org'; 'ecf@democracyforward.org'
Cc: Sroka, Scott (USADC) (Scott.Sroka@usdoj.gov)
Subject: DFF v. ED - 1:18-cv-01596

Good afternoon –

I am agency counsel assigned to the above-cited litigation. Despite the partial shutdown, and as ED is fully funded, I am continuing to process the interim releases scheduled for the 14th of each month. However, I will be out of the office January 14, returning January 15. Would DFF consent to my sending out the January release on the 15th?

Jill Siegelbaum
Attorney
Division of Business and Administrative Law
Office of the General Counsel
U.S. Department of Education
Room 6E249
400 Maryland Avenue, SW
Washington, DC 20202

Phone: (202) 708-6812
Facsimile: (202) 401-9528

Canada, June

From: Van Horn, Daniel (USADC) <Daniel.VanHorn@usdoj.gov>
Sent: Monday, December 31, 2018 10:42 AM
To: Siegelbaum, Jill; Sasser, Tracey
Cc: Hudak, Brian (USADC)
Subject: FW: ED Case

(b)(5)

A large rectangular area of the document is redacted with a solid black fill.

From: Hudak, Brian (USADC) <BHudak@usa.doj.gov>
Sent: Monday, December 31, 2018 10:22 AM
To: Van Horn, Daniel (USADC) <DVanHorn@usa.doj.gov>
Subject: ED Case

(b)(5)

A rectangular area of the document is redacted with a solid black fill.

Brian P. Hudak | Deputy Chief
Civil Division, U.S. Attorney's Office
(202) 252-2549 | 555 Fourth Street, NW, Washington, DC 20530

Canada, June

From: Hudak, Brian (USADC) <Brian.Hudak@usdoj.gov>
Sent: Wednesday, January 02, 2019 5:41 PM
To: Siegelbaum, Jill
Subject: RE: ED Case

(b)(5)

Brian P. Hudak | Deputy Chief
Civil Division, U.S. Attorney's Office
(202) 252-2549 | 555 Fourth Street, NW, Washington, DC 20530

From: Siegelbaum, Jill <Jill.Siegelbaum@ed.gov>
Sent: Wednesday, January 2, 2019 4:47 PM
To: Hudak, Brian (USADC) <BHudak@usa.doj.gov>
Subject: RE: ED Case

(b)(5)

From: Hudak, Brian (USADC) [<mailto:Brian.Hudak@usdoj.gov>]
Sent: Wednesday, January 02, 2019 4:45 PM
To: Siegelbaum, Jill
Subject: RE: ED Case

(b)(5)

Brian P. Hudak | Assistant U.S. Attorney
(202) 252-2549 | 555 Fourth Street, NW, Washington, DC 20530

From: Siegelbaum, Jill <Jill.Siegelbaum@ed.gov>
Sent: Wednesday, January 2, 2019 4:43 PM
To: Hudak, Brian (USADC) <BHudak@usa.doj.gov>
Subject: RE: ED Case

(b)(5)

From: Hudak, Brian (USADC) [<mailto:Brian.Hudak@usdoj.gov>]
Sent: Wednesday, January 02, 2019 4:37 PM
To: Siegelbaum, Jill
Subject: RE: ED Case

(b)(5)

Best,

Brian P. Hudak | Deputy Chief
Civil Division, U.S. Attorney's Office
(202) 252-2549 | 555 Fourth Street, NW, Washington, DC 20530

From: Siegelbaum, Jill <Jill.Siegelbaum@ed.gov>
Sent: Wednesday, January 2, 2019 3:56 PM
To: Hudak, Brian (USADC) <BHudak@usa.doj.gov>
Subject: RE: ED Case

(b)(5)

From: Hudak, Brian (USADC) [<mailto:Brian.Hudak@usdoj.gov>]
Sent: Wednesday, January 02, 2019 9:53 AM
To: Siegelbaum, Jill
Subject: RE: ED Case

(b)(5)

Best,
Brian

Brian P. Hudak | Deputy Chief
Civil Division, U.S. Attorney's Office
(202) 252-2549 | 555 Fourth Street, NW, Washington, DC 20530

From: Siegelbaum, Jill <Jill.Siegelbaum@ed.gov>
Sent: Wednesday, January 2, 2019 9:36 AM
To: Van Horn, Daniel (USADC) <DVanHorn@usa.doj.gov>; Sasser, Tracey <Tracey.Sasser@ed.gov>
Cc: Hudak, Brian (USADC) <BHudak@usa.doj.gov>
Subject: RE: ED Case

(b)(5)

From: Van Horn, Daniel (USADC) [<mailto:Daniel.VanHorn@usdoj.gov>]
Sent: Monday, December 31, 2018 10:42 AM
To: Siegelbaum, Jill; Sasser, Tracey
Cc: Hudak, Brian (USADC)
Subject: FW: ED Case

Tracey Sasser

(b)(5)



From: Hudak, Brian (USADC) <BHudak@usa.doj.gov>
Sent: Monday, December 31, 2018 10:22 AM
To: Van Horn, Daniel (USADC) <DVanHorn@usa.doj.gov>
Subject: ED Case

(b)(5)



Brian P. Hudak | Deputy Chief
Civil Division, U.S. Attorney's Office
(202) 252-2549 | 555 Fourth Street, NW, Washington, DC 20530

Canada, June

From: Voltaire, Jean Michel (CIV) <Jean.Michel.Voltaire@usdoj.gov>
Sent: Thursday, January 03, 2019 2:33 PM
To: Siegelbaum, Jill; Elmore, Christopher - OGC; Bermes, Peter
Subject: (b)(5)

(b)(5)



Canada, June

From: Hudak, Brian (USADC) <Brian.Hudak@usdoj.gov>
Sent: Monday, January 07, 2019 5:27 PM
To: Siegelbaum, Jill
Cc: Peterson, Benton (USADC); Sroka, Scott (USADC)
Subject: ED FOIA Cases

(b)(5)



Brian P. Hudak | Assistant U.S. Attorney
(202) 252-2549 | 555 Fourth Street, NW, Washington, DC 20530

Canada, June

From: Graham-Oliver, Heather (USADC) <Heather.Graham-Oliver@usdoj.gov>
Sent: Tuesday, January 22, 2019 3:39 PM
To: Siegelbaum, Jill; Mayo-Tall, Karen
Subject: (b)(5)

(b)(5)

From: Siegelbaum, Jill <Jill.Siegelbaum@ed.gov>
Sent: Tuesday, January 22, 2019 3:34 PM
To: Graham-Oliver, Heather (USADC) <HGraham-Oliver@usa.doi.gov>; Mayo-Tall, Karen <Karen.Mayo-Tall@ed.gov>
Subject: (b)(5)

(b)(5)

From: Graham-Oliver, Heather (USADC) [mailto:Heather.Graham-Oliver@usdoj.gov]
Sent: Tuesday, January 22, 2019 3:32 PM
To: Siegelbaum, Jill; Mayo-Tall, Karen
Subject: (b)(5)

(b)(5)

From: Siegelbaum, Jill <Jill.Siegelbaum@ed.gov>
Sent: Tuesday, January 22, 2019 3:07 PM
To: Graham-Oliver, Heather (USADC) <HGraham-Oliver@usa.doi.gov>; Mayo-Tall, Karen <Karen.Mayo-Tall@ed.gov>
Subject: (b)(5)

(b)(5)

From: Graham-Oliver, Heather (USADC) [mailto:Heather.Graham-Oliver@usdoj.gov]
Sent: Tuesday, January 22, 2019 2:11 PM
To: Siegelbaum, Jill
Subject: (b)(5)

(b)(5)

Heather Graham-Oliver
Deputy Chief
Judiciary Square Building
Civil Division
555 Fourth Street NW

Tracey Sasser

Washington, D.C. 20530
202 252-2520

Canada, June

From: Siegelbaum, Jill
Sent: Tuesday, January 22, 2019 3:34 PM
To: Graham-Oliver, Heather (USADC); Mayo-Tall, Karen
Subject: (b)(5)

(b)(5)

From: Graham-Oliver, Heather (USADC) [<mailto:Heather.Graham-Oliver@usdoj.gov>]
Sent: Tuesday, January 22, 2019 3:32 PM
To: Siegelbaum, Jill; Mayo-Tall, Karen
Subject: (b)(5)

(b)(5)

From: Siegelbaum, Jill <Jill.Siegelbaum@ed.gov>
Sent: Tuesday, January 22, 2019 3:07 PM
To: Graham-Oliver, Heather (USADC) <HGraham-Oliver@usa.doj.gov>; Mayo-Tall, Karen <Karen.Mayo-Tall@ed.gov>
Subject: (b)(5)

(b)(5)

From: Graham-Oliver, Heather (USADC) [<mailto:Heather.Graham-Oliver@usdoj.gov>]
Sent: Tuesday, January 22, 2019 2:11 PM
To: Siegelbaum, Jill
Subject: (b)(5)

(b)(5)

Heather Graham-Oliver
Deputy Chief
Judiciary Square Building
Civil Division
555 Fourth Street NW
Washington, D.C. 20530
202 252-2520

From: Mayo-Tall, Karen

Sent: Thursday, January 17, 2019 8:00 AM

To: McFadden, Elizabeth; Rosenfelt, Phil; Sasser, Tracey

Cc: Siegelbaum, Jill; Wilson, Lauren

Subject: FW: Am. Oversight v. U.S. Dep't of Commerce, No. 18-cv-534 (D.D.C.) shutdown and stay

Good morning, all,

FYI - Here is the latest production guidance that I have received from DOJ, just in case you have not received it as well. Please note the highlighted portion.

Karen

-----Original Message-----

From: Luh, James (CIV) [mailto:James.Luh@usdoj.gov]

Sent: Tuesday, January 15, 2019 1:11 PM

To: Andrew.Stein@treasury.gov; joy.park@dot.gov; MBogomolny@doc.gov; Mayo-Tall, Karen; Kristin.Koernig@Hq.Doe.Gov; Kaminer.Joan@epa.gov; rachel.spector@sol.doi.gov; Plick.Joseph@dol.gov; Weinstock.Tamar.M@dol.gov; Megan.Gibson@hhs.gov; LoftusE@state.gov; Christopher.Elmore@OGC.USDA.GOV; Mathias, Susan; Kristy.a.mctighe@hud.gov; Lawrence.j.park@hud.gov; Walker, Anna D - SOL

Subject: Am. Oversight v. U.S. Dep't of Commerce, No. 18-cv-534 (D.D.C.) shutdown and stay

Colleagues

I wanted to update you on American Oversight v. U.S. Department of Commerce, No. 18-cv-534 (D.D.C.) (the case pertaining to FOIA requests for calendars) and how we are proceeding in light of the lapse of Government appropriations.

(b)(5)



Jim

--

James C. Luh

Senior Trial Counsel

U.S. Department of Justice, Civil Division, Federal Programs Branch tel (b)(6) email
James.Luh@usdoj.gov

From: DCD_ECFNotice@dcd.uscourts.gov
Sent: Wednesday, December 26, 2018 3:38 PM
To: DCD_ECFNotice@dcd.uscourts.gov
Subject: Activity in Case 1:18-cv-00534-KBJ AMERICAN OVERSIGHT v. U.S. DEPARTMENT OF COMMERCE et al Order on Motion to Stay

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 12/26/2018 at 3:38 PM EDT and filed on 12/26/2018

Case Name: AMERICAN OVERSIGHT v. U.S. DEPARTMENT OF COMMERCE et al

Case Number: 1:18-cv-00534-KBJ

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER granting [31] Motion to Stay in light of lapse of appropriations. For good cause shown, it is hereby ORDERED that this case is STAYED. Counsel for Defendants shall notify the Court as soon as Congress has appropriated funds; at that point, the Court will enter an order resetting the applicable deadlines, which will be extended day-for-day with the duration of the lapse in appropriations. Signed by Judge Ketanji Brown Jackson on 12/26/2018. (lckbj1)

1:18-cv-00534-KBJ Notice has been electronically mailed to:

James C. Luh james.luh@usdoj.gov, fedprog.ecf@usdoj.gov

Sara Kaiser Creighton sara.creighton@americanoversight.org

Laura Ann Hunt Laura.A.Hunt@usdoj.gov, fedprog.ecf@usdoj.gov

Katherine Marie Anthony katherine.anthony@americanoversight.org, clay.goode@americanoversight.org

1:18-cv-00534-KBJ Notice will be delivered by other means to::

Wilson, Lauren

From: Wilson, Lauren
Sent: Thursday, January 24, 2019 3:45 PM
To: Sasser, Tracey
Subject: RE: 5:00 TODAY: List of Items that we are working on that might be affected by longer-term shutdown such as going to April 1
Attachments: OGC information re potential impact of partial government shutdown_LW response.docx

Hi Tracey,

Here is an update on my litigation and how the cases are/will be impacted by the partial government shutdown. Also, please see my comment in the attached document.

(FOIA case that I addressed in the attached document)

Democracy Forward Foundation v. U.S. Department of Education (Case No. 1:18-cv-0976 - DDC): The plaintiff submitted three FOIA requests to ED in March 2018. Each of the requests was related to the ED's Title IX guidance. ED has completed production of responsive documents and has provided the plaintiff with a draft *Vaughn* index. The parties narrowed the issues for briefing and proposed a briefing schedule including a motion for summary judgment deadline of 1/22/19. The court never implemented the proposed briefing schedule. We also filed an unopposed motion to stay due to the shutdown, which the court has yet to rule on.

(Other FOIA cases)

Stein v. CIA et al (Case No. 1:17-cv-00198- DDC): The defendants filed our opposition to plaintiff's motion for summary judgment and reply in support of defendants' motion for summary judgment on 12/21/18. The plaintiff's reply brief is due on 2/1/19. The defendants do not have any pending deadlines at this time.

National Consumer Law Center v. U.S. Department of Education (Case No. 1:18-cv-10763 – D.Ma.): The plaintiff made a FOIA request to ED in June 2017 for agency communications referencing *California Association of Private Postsecondary Schools v. DeVos*. The plaintiff's complaint alleges that ED failed to conduct a proper search and, therefore, failed to disclose responsive records. ED has completed a supplemental search and produced responsive documents to the plaintiff. The parties filed a motion to stay, and the motion was granted. Discovery is stayed until appropriations have been restored to DOJ or the stay has been lifted. The parties are required to file a joint status report within 28 days of the stay being lifted that includes a proposed schedule for further proceedings.

(EEOC)

I have been filing motions with the EEOC based on the deadlines established prior to the shutdown. Of course, proceedings are delayed due to the EEOC being closed as part of the shutdown.

Please let me know if any further information would be helpful.

Thank you,

Lauren

Page 2 of 7

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information and Privacy Act

From: [Wilson, Lauren](#)
To: [Wexler, Rob](#)
Cc: [Sasser, Tracey](#)
Subject: RE: Question re Democracy Forward and OGC's Cabinet Affairs Report
Date: Thursday, January 03, 2019 12:18:00 PM

Rob,

No problem, I will update by report this afternoon.

Lauren

From: Wexler, Rob
Sent: Thursday, January 03, 2019 12:13 PM
To: Wilson, Lauren
Cc: Sasser, Tracey
Subject: RE: Question re Democracy Forward and OGC's Cabinet Affairs Report

Hi Lauren – That's very helpful. (b)(5) (b)(5) ED has proposed the January 22 time. Would you not A.

(b)(5)

Thanks so much,
Rob

From: Wilson, Lauren
Sent: Thursday, January 03, 2019 12:07 PM
To: Wexler, Rob
Cc: Sasser, Tracey
Subject: RE: Question re Democracy Forward and OGC's Cabinet Affairs Report

Hi Rob,

We don't have any deadlines set over the next 30 days for the Democracy Forward Foundation litigation. The parties filed a joint status report on 12/20/18. We proposed a briefing schedule that would begin with ED filing a motion for summary judgment on 1/22/19. However, the court has not implemented the parties' proposed briefing schedule, presumably due to the partial government shutdown. (b)(5)

(b)(5)

Please feel free to let me know if you have any questions.

Thank you,

Lauren

From: [Wilson, Lauren](#)
To: pllewellyn@citizen.org
Cc: [Poswistilo, Susan \(USAMA\)](#)
Subject: NCLC v. ED Draft Vaughn Index
Date: Thursday, January 17, 2019 9:56:00 AM
Attachments: [Limited Draft Vaughn Index NCLCv. ED.pdf](#)
[NCLC part 1 pages 215-250 unredacted.pdf](#)

Good morning, Patrick,

It is my understanding that NCLC requested a draft *Vaughn* index from the Department of Education regarding a list of redactions that you sent to Susan Poswistilo. We have completed a draft *Vaughn* index as requested. I am sending it to you directly since DOJ employees are currently furloughed.

Sincerely,

Lauren Wilson

General Attorney

Office of the General Counsel, Division of Business and Administrative Law

U.S. Department of Education

202-453-5778

From: Wilson, Lauren
To: Poswistilo, Susan (USAMA)
Subject: RE: Status
Date: Wednesday, January 16, 2019 10:03:00 AM

Hi Susan,

I am not furloughed. However, I (b)(5) : Please let me know if you need any other information from me.

Best,

Lauren

From: Poswistilo, Susan (USAMA) [mailto:Susan.Poswistilo@usdoj.gov]
Sent: Wednesday, January 16, 2019 9:57 AM
To: Wilson, Lauren
Subject: Status

Lauren, can you let me know if you are furloughed or not? I am, but am planning to (b)(5)

(b)(5)

Susan

Susan M. Poswistilo
Assistant U.S. Attorney
John J. Moakley Federal Courthouse
One Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3103
susan.poswistilo@usdoj.gov